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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/874,421 | 06/05/2001 | William P. Lord | US010280 | 5689 |
| 24737 | 7590 | 01/05/2009 | EXAMINER | |
| PHILIPS INTELLECTUAL PROPERTY & STANDARDS | | | SHANG, ANNAN Q | |
| P.O. BOX 3001 | | | ART UNIT | PAPER NUMBER |
| BRIARCLIFF MANOR, NY 10510 | | | 2424 | |
| MAIL DATE | | DELIVERY MODE | | |
| 01/05/2009 | | PAPER | | |

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM P. LORD

Appeal 2008-4968
Application 09/874,421
Technology Center 2400

Decided: January 1, 2009

Before JOSEPH F. RUGGIERO, ROBERT E. NAPPI, and KARL D. EASTHOM, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 6(b) of the final rejection of claims 1 through 8, 10 through 12, and 18 through 26.

We affirm the Examiner's rejections of these claims.

INVENTION

The invention is directed towards a method for providing synchronized replay of a previously recorded television program and corresponding enhanced web simulcast. See page 3 of Appellant's

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Specification. Claim 1 is representative of the invention and reproduced below:

1. A method for recording a television program broadcast by a TV broadcaster and web content associated with the television program communicated by a web server, the method comprising:
 - receiving a request to record the television program selected by a user;
 - establishing a web connection to the web server;
 - downloading the web content;
 - synchronizing for storing in a memory the television program and the downloaded web content; and
 - storing the television program and the downloaded web content in response to the request to record the television program.

REFERENCES

Hull US 2002/0056082 A1 May 9, 2002
(filed Nov. 30, 2000)

Blackketter US 6,772,438 B1 Aug 3, 2004
(filed Jun. 29, 2000)

REJECTIONS AT ISSUE

The Examiner has rejected claims 18 and 20 through 24 under 35 U.S.C. § 102(e) as being anticipated by Blackketter. The Examiner's rejection is on pages 3 and 4 of the Answer.¹

The Examiner has rejected claims 1 through 8, 10 through 12, 19, 25, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Blackketter in

¹ Throughout the opinion, we make reference to the Answer, mailed August 9, 2007, for the respective details thereof.

view of Hull. The Examiner's rejection is on pages 4 through 8 of the Answer.

ISSUES

Rejection under 35 U.S.C. § 102(e)

Appellant argues on page 8 through 10 of the Brief² that the Examiner's rejection of claims 18 and 20 through 24³ under 35 U.S.C. § 102(e) is in error. Appellant asserts on page 8 of the Brief that the Examiner erred in finding that Blackketter teaches concurrently recording both video and web content upon receipt of a command from a user as claimed in claim 18. On pages 9 and 10 of the Brief, Appellant presents a similar argument with respect to each of claims 20, 23, and 24 further asserting that Blackketter does not teach concurrently playing back the video and web content.

Thus, Appellant's contentions with respect to the claims rejected under 35 U.S.C. § 102(e) present us with the following issue: has Appellant shown that the Examiner erred in finding that Blackketter teaches concurrently recording or playing back both video and web content upon receipt of a command from a user as claimed.

² Throughout the opinion, we make reference to the Brief, received April 16, 2007 for details thereof.

Rejection under 35 U.S.C. § 103(a)

Appellant argues on page 10 through 12 of the Brief⁴ that the Examiner’s rejection of claims 1 through 8, 10 through 12, 19, 25, and 26 under 35 U.S.C. § 103(a) is in error. Appellant presents arguments directed to these claims in 5 groups, each of these arguments focus on the Examiner’s finding that Blackketter teaches concurrently recording or playing back both video and web content upon receipt of a command from a user.

Thus, Appellant’s contentions with respect to the rejection of claims 1 through 8, 10 through 12, 19, 25, and 26 under 35 U.S.C. § 103(a) present us with the same issue as the rejection under 35 U.S.C. § 102(e).

PRINCIPLES OF LAW

In analyzing the scope of the claim, Office personnel must rely on Appellant’s disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995). “[I]nterpreting what is *meant* by a word *in* a claim ‘is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.’” (Emphasis original). *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348 (Fed. Cir. 2002) (citations and quotations omitted).

⁴ Throughout the opinion, we make reference to the Brief, received April 16, 2007 for details thereof.

FINDINGS OF FACT

1. Blackketter teaches a system for retrieving data associated (web document) with a broadcast signal. Abstract.
2. Blackketter teaches that television broadcast signals can refer to web content which the user can view. There are two ways for the content to be transmitted to the user's device, it can be received by a data link or by data encoded in the vertical blanking interval of the broadcast. Col. 2, ll. 26-54, col. 3, ll. 1-9, col. 4, ll. 46-48.
3. The web content can be additional information about the program or provide the opportunity for the viewer to initiate interactive television content. Blackketter, col. 7, ll. 34-38.
4. Blackketter teaches that “[t]he web page content is received and stored locally in the television receiver for future access.” Col. 2, ll. 31-32.
5. Blackketter teaches that the receiver includes a video storage device. The receiver performs the procedures necessary to record and playback television programs. Col. 4, ll. 30, 40-41, 49-50, 55-60.
6. Blackketter does not specifically identify that the recording is initiated by a user input, however we find that one of skill in the art would recognize that a the recording operation is in response to a user input.

ANALYSIS

Rejection under 35 U.S.C. § 102(e)

Claims 18, 21 and 22.

Appellant's arguments have not persuaded us that the Examiner erred in finding that Blackketter teaches concurrently recording both video and

web content upon receipt of a command from a user as claimed. Claim 18 recites “a controller that is configured to receive a record command, and to concurrently initiate a recording of the broadcast video and a recording of the web content, to facilitate a concurrent playback of the broadcast video and the web content.” Thus, the scope of claim 18 recites that in response to a user request to record a television program, the device records the broadcast content and web content associated with the broadcast content. Appellant has not separately addressed dependent claims 21 and 22 and therefore claims 21 and 22 are grouped with claim 18.

The Examiner has found that Blackketter teaches that the receiver receives and stores television signals (broadcast video) and the associated web content. We concur with the Examiner’s findings. Blackketter teaches that the web content is encoded with the television program. Fact 2. As the web content is received it is stored for later use. Fact 4. Blackketter further teaches that the receiver has the ability to record television programs. Fact 5. Although, not specifically identified in Blackketter, we find that the skilled artisan would understand that recording is initiated by a user request. Fact 6. Thus, we find ample evidence to support the Examiner’s finding that Blackketter teaches recording the television program and associated web content in response to user input and we sustain the Examiner’s rejection of claims 18, 21, and 22.

Claim 20

Appellant’s arguments directed to claim 20, on page 9 of the Brief apply the same reasoning as discussed with respect to claim 18 and argues that Blackketter does not concurrently initiate a playback of the broadcast

video.

Appellant's arguments have not persuaded us of error in the Examiner's rejection. Claim 20 is dependent upon claim 18 and further recites that the system initiates playback of the broadcast and web content concurrently. As discussed above with respect to claim 18, we find ample evidence to support the Examiner's finding that Backketter teaches recording the television program (broadcast video) and associated web content. Further, Blackketter teaches that the web content is associated with the television program and stored for later playback. Fact 1. Thus, one skilled in the art would recognize that when the television content recorded is played back the associated web material that was stored will also be played back at the appropriate time. Thus, we find ample evidence of record to support the Examiner's finding that Blackketter teaches concurrently playing back the recorded (stored) broadcast video and web content and we sustain the Examiner's rejection of claim 20.

Claim 23

Appellant's arguments on page 9 of the Brief, directed to claim 23 raise the same issue as discussed with respect to claim 18. Claim 23, is similar in scope to claim 18 in that it recites recording web content and broadcast video. Claim 23 also recites associating the two recordings. As discussed with respect to claim 18, we find ample evidence to support the Examiner's finding that both a television program (broadcast content) and web content associated with the television program are recorded for later use. Accordingly, we sustain the Examiner's rejection of claim 23.

Claim 24

Appellant's arguments directed to claim 24 on page 10 of the Brief, raise the same issue discussed above with respect to claim 20, in that Appellant argues that Blackketter does not teach initiating playback of both recordings. We are not persuaded of error by these arguments. Claim 24 is dependent upon claim 23 and further recites initiating playback of both the recorded broadcast video and the associated web content. As discussed with respect to claim 20 we find ample evidence to support the Examiner's finding that Blackketter teaches these limitations. Accordingly, we sustain the Examiner's rejection of claim 24.

Rejection under 35 U.S.C. § 103(a)

Claims 1, 4, 6 and 7

Appellant's arguments on page 10 of the Brief group claims 1, 4, 6 and 7 together and assert that the Examiner erred in finding that Blackketter teaches concurrently recording both video and web content upon receipt of a command from a user as claimed. Appellant has not persuaded us of error in the Examiner's rejection of these claims. We select claim 1 as representative of the group of claims. Claim 1 is similar to claim 18 in that it recites storing the television program and downloaded web content in response to a request to record a television program. As discussed *supra* with respect to claim 18, we find ample evidence to support the Examiner's finding that Blackketter teaches this feature. Accordingly, we sustain the Examiner's rejection of claims 1, 4, 6 and 7 for the reasons discussed *supra* with respect to claim 18.

Claims 2, 3, and 5

Appellant's arguments on page 11 of the Brief group claims 2, 3, and 5 together and assert that the Examiner erred in finding that Blackketter teaches playing both video and web content upon receipt of a command from a user as claimed. Appellant has not persuaded us of error in the Examiner's rejection of these claims. We select claim 2 as representative of the group of claims. Claim 2 is dependent upon claim 1 and is similar to claim 20 in that it recites playing the stored television program and web content in response to a request. As discussed *supra* with respect to claim 20, we find ample evidence to support the Examiner's finding that Blackketter teaches this feature. Accordingly, we sustain the Examiner's rejection of claims 2, 3, and 5 for the reasons discussed *supra* with respect to claim 20.

Claims 8 and 10 through 12

Appellant's arguments on page 11 of the Brief group claims 8 and 10 through 12 together and assert that the Examiner erred in finding that Blackketter teaches recording and playing both video and web content upon receipt of a command from a user as claimed. Appellant has not persuaded of error in the Examiner's rejection of these claims. We select claim 8 as representative of the group of claims. Claim 8 recites steps of storing a television program web content associated with the program similar to those discussed with respect to claim 18. Claim 8 also recites steps of playing back the broadcast and web content concurrently similar to those discussed with respect to claim 20. As discussed *supra* with respect to claims 18 and 20, we find ample evidence to support the Examiner's finding that

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Blackketter teaches these features. Accordingly, we sustain the Examiner's rejection of claims 8 and 10 through 12 for the reasons discussed *supra* with respect to claims 18 and 20.

Claim 19

Appellant's arguments directed to claim 19, on page 12 of the Brief apply the same reasoning as discussed with respect to claim 18. Accordingly, we sustain the Examiner's rejection of claim 19 for the reasons discussed with respect to claim 18.

Claims 25 and 26

Appellant's arguments directed to claims 25 and 26, on page 12 of the Brief apply the same reasoning as discussed with respect to claim 23. Accordingly, we sustain the Examiner's rejection of claim 25 and 26 for the reasons discussed with respect to claim 23.

ORDER

The decision of the Examiner to reject claims 1 through 8, 10 through 12, and 18 through 26 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

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AFFIRMED

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